

#### § 25.2513-4

#### 26 CFR Ch. I (4-1-04 Edition)

the close of the calendar year to which it applies may not be revoked.

(2) With respect to gifts made after December 31, 1970, and before January 1, 1982, if the consent to the application of the provisions of section 2513 for a calendar quarter was effectively signified on or before the 15th day of the second month following the close of such calendar quarter, either spouse may revoke the consent by filing in duplicate a signed statement of revocation, but only if the statement is filed on or before such 15th day of the second month following the close of such calendar quarter. Therefore, a consent that was not effectively signified until after the 15th day of the second month following the close of the calendar quarter to which it applies may not be revoked.

(b) Except as provided in paragraph (b) of § 301.6091-1 of this chapter (relating to hand-carried documents), the statement referred to in paragraph (a) of this section shall be filed with the internal revenue officer with whom the gift tax return is required to be filed, or with whom the gift tax return would be required to be filed if a return were required.

[T.D. 7238, 37 FR 28730, Dec. 29, 1972, as amended by T.D. 7910, 48 FR 40375, Sept. 7, 1983]

#### § 25.2513-4 Joint and several liability for tax.

If consent to the application of the provisions of section 2513 is signified as provided in § 25.2513-2, and not revoked as provided in § 25.2513-3, the liability with respect to the entire gift tax of each spouse for such "calendar period" (as defined in § 25.2502-1(c)(1)) is joint and several. See paragraph (d) of § 25.2511-1.

[T.D. 7238, 37 FR 28730, Dec. 29, 1972, as amended by T.D. 7910, 48 FR 40375, Sept. 7, 1983]

#### § 25.2514-1 Transfers under power of appointment.

(a) *Introductory.* (1) Section 2514 treats the exercise of a general power of appointment created on or before October 21, 1942, as a transfer of property for purposes of the gift tax. The section also treats as a transfer of property the exercise or complete re-

lease of a general power of appointment created after October 21, 1942, and under certain circumstances the exercise of a power of appointment (not a general power of appointment) created after October 21, 1942, by the creation of another power of appointment. See paragraph (d) of § 25.2514-3. Under certain circumstances, also, the failure to exercise a power of appointment created after October 21, 1942, within a specified time, so that the power lapses, constitutes a transfer of property. Paragraphs (b) through (e) of this section contain definitions of certain terms used in §§ 25.2514-2 and 25.2514-3. See § 25.2514-2 for specific rules applicable to certain powers created on or before October 21, 1942. See § 25.2514-3 for specific rules applicable to powers created after October 21, 1942.

(2) [Reserved]

(b) *Definition of "power of appointment"*—(1) *In general.* The term "power of appointment" includes all powers which are in substance and effect powers of appointment received by the donee of the power from another person, regardless of the nomenclature used in creating the power and regardless of local property law connotations. For example, if a trust instrument provides that the beneficiary may appropriate or consume the principal of the trust, the power to consume or appropriate is a power of appointment. Similarly, a power given to a donee to affect the beneficial enjoyment of a trust property or its income by altering, amending or revoking the trust instrument or terminating the trust is a power of appointment. A power in a donee to remove or discharge a trustee and appoint himself may be a power of appointment. For example, if under the terms of a trust instrument, the trustee or his successor has the power to appoint the principal of the trust for the benefit of individuals including himself, and A, another person, has the unrestricted power to remove or discharge the trustee at any time and appoint any other person, including himself, A is considered as having a power of appointment. However, he would not be considered to have a power of appointment if he only had the power to appoint a successor, including himself, under limited conditions which did not